

Statement of Representative Henry A. Waxman  
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Thank you all for this opportunity to talk with you about tobacco legislation in Congress. The next twelve weeks will decide tobacco policy for the next decade, so I am delighted that you are focused on this issue and willing to fight for the best public health policy possible.

For decades the tobacco industry has used advertising to sell their product. The record of the last fifty years clearly shows that they have no equal when it comes to marketing. They have manipulated millions of boys and girls in all corners of our country into experimenting with a product that has no benefit, is lethal to many who use it, and is addictive.

Today, if you pick up a newspaper, turn on the TV, or listen to the radio, you'll discover the latest tobacco marketing campaign. This one isn't for Marlboro or Camel or Winston--it's for legislation that is key to the industry's future prosperity. And the companies are going to use all their talents and powers in trying to manipulate Congress and the American people into supporting a bill that guarantees big profits for the next fifty years.

For the companies, the so-called "tobacco settlement" is a business transaction. And like any business deal, they want to get more than they give up. My job--and I think you share an important responsibility in this--is to make sure that doesn't happen. That doesn't mean we don't pass a bill. I've been working for twenty years to have comprehensive legislation passed and I think this is the year we should act. But if there is a deal, then we must be absolutely sure that the public gets more than it gives up to the industry. That is our obligation.

In almost every way, the last year's proposed tobacco settlement was a dream come true for the industry. In that deal, the companies agreed that it would curb many of its advertising excesses and would support laws make it more difficult for our kids to buy cigarettes. And they agreed to pay over \$360 million in compensation for all the harm they have caused. That's what the industry was willing to give and, in truth, there are important public health gains there.

In return, however, the companies negotiated an agreement that guaranteed it every tool necessary for future growth.

The industry was concerned that the Food and Drug Administration might someday require that cigarettes be less addictive. That's obviously a dangerous threat for an industry that relies on addicted customers for projected profits. So the deal restricted the FDA's ability to regulate cigarettes in the future.

The industry has also grown concerned that export restricts might inhibit it from earning billions of dollars overseas. So the the deal contained no provisions that would prevent the companies from targeting kids or women in Asia as future customers. And in the companies' view, that market is their cash cow for the next century.

And most importantly, the industry wanted to find some way to escape the financial guillotine that lawsuits pose. For as long as I can remember the industry has disputed every scientific finding that cigarettes cause cancer and other diseases. They have done everything in their power to raise a reasonable doubt and encourage kids and adults to keep on smoking.

For years they won every lawsuit filed. But that has changed dramatically now. Internal company documents prove that the industry targeted kids, that executives knew tobacco killed, that they knew it was

addictive, and that nicotine was carefully manipulated so that addiction couldn't be beaten.

The executives of the companies testified in 1994--in a congressional hearing I chaired--and lied about all of this. In the four years since that hearing, we have obtained the documents that starkly expose the lie.

In the face of this new risk--a risk so great that it threatens bankruptcy--the industry devised a plan for immunity. And the deal they negotiated last year gives them that--immunity for past and future conduct.

Now think about that. We have an industry that has acted more recklessly and caused more harm than any other industry in America. And in response to that unquestioned behavior, they seek an immunity from liability that no other company or individual in America has.

If the industry wins, we lose. If the industry weakens FDA's authority, if it has a clear path to make billions overseas, if it can find financial certainty by lifting the threat of liability, then in ten years we will regret having ever passed legislation. The industry will have more smokers worldwide and they will be an even more powerful force in our country.

It doesn't have to be that way. We can pass legislation that fundamentally changes the industry and protects the public health.

First, the FDA must have full authority to regulate this deadly and addictive product.

Second, the companies should be bound overseas for the advertising restrictions that we adopt in this country. If it's wrong to target kids in Detroit and Los Angeles, it's just as wrong to target 14 year-old girls in China, Thailand, and Indonesia.

Third, we need legislation that will increase the price of cigarettes by at least \$1.50 per pack. Every study shows that as prices go higher, youth smoking rates come down.

Fourth, we need a national second-hand smoke law that protects both kids and adults from the dangers of cigarette smoke. The Environmental Protection Agency has found that second-hand smoke is a Class A carcinogen that sends over one million children to the hospital every year. It doesn't cost a dime to prevent this risk.

And last, we need certainty in legislation that the companies will work hard to stop exploiting our kids. That's why legislation must include a tough performance standard that requires absolute reductions in the number of kids smoking in the years ahead. The companies can do this by changing their ad campaigns, making sure their vendors don't sell to kids, and ending the glamorization of cigarettes. This provision, more than any other, can give us a public health certainty that the smoking epidemic among our kids will end.

With any other industry, this kind of legislation wouldn't be controversial, it would be common sense. And with any other industry, our kids wouldn't be held hostage to a sweetheart deal on immunity.

There isn't a single reason this industry should receive immunity or any cap on its liability. I encourage you as strongly as I can to look at the documents that have been released during the past year. Imagine the consequences in your own lives if you had acted in the same way. And imagine the precedent this sets if this industry--after all its done--is

given a “Get out of Jail Free” card.

We shouldn’t need--and we don’t need--the tobacco industry’s blessing to pass legislation that protects our kids and the public health. All we need is the political courage to do what’s right.

You can help give us that courage. I applaud your current efforts and the initiative that your President, Dr. Seltzer, is taking on decreasing smoking among women. That is a wonderful contribution to the public interest. But over these next twelve weeks, please do even more. Make sure that you are heard on this issue and make sure that Congress does the right thing.

This is the year we will finally pass tobacco legislation--let’s do everything we can to make sure it’s legislation we will be proud of.

Thank you for letting me join you this morning.